



Governing Body

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Institutional Section

INS

FOURTEENTH ITEM ON THE AGENDA

Report of the Director-General

Eighth Supplementary Report: Report of the committee set up to examine the representation alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), made under article 24 of the ILO Constitution by the International Trade Union Confederation and the Building and Woodworkers International

I. Introduction

1. In a communication dated 16 January 2013, the International Trade Union Confederation (ITUC) and the Building and Woodworkers International (BWI), made a representation under article 24 of the Constitution of the International Labour Organization, alleging non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), ratified in 1998 and currently in force in Qatar.
2. The following provisions of the ILO Constitution relate to representations:

Article 24

In the event of any representation being made to the International Labour Office by an industrial association of employers or of workers that any of the Members has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party, the Governing Body may communicate this representation to the government against which it is made, and may invite that government to make such statement on the subject as it may think fit.

Article 25

If no statement is received within a reasonable time from the government in question, or if the statement when received is not deemed to be satisfactory by the Governing Body, the latter shall have the right to publish the representation and the statement, if any, made in reply to it.

3. In accordance with article 1 of the Standing Orders concerning the procedure for the examination of representations under articles 24 and 25 of the ILO Constitution, as revised by the Governing Body at its 291st Session (November 2004), the Director-General acknowledged receipt of the representation, informed the Government of Qatar and brought it before the Officers of the Governing Body.
4. At its 317th Session (March 2013), the Governing Body decided that the representation was receivable and appointed a committee for its examination composed of Mr Dongwen Duan (Government member, China), Mr Khalifa Khamis Mattar (Employer member, United Arab Emirates) and Ms Binda Pandey (Worker member, Nepal).
5. The Government of Qatar submitted its written observations in a communication dated 10 July 2013.
6. The committee held its first meeting on 24 October 2013 and decided to request the complainant organizations and the Government to provide additional information on certain points. Additional information was received on 21 November 2013 by ITUC and on 22 January 2014 by the Government.
7. The committee met on 20 and 24 March 2014 to examine the case and adopt its report.

II. Examination of the representation

A. Allegations made by the complainant organizations

8. In its communications of 16 January and 21 November 2013, the complainant organizations allege the non-observance by Qatar of the Forced Labour Convention, 1930 (No. 29), through policies and practices that facilitate the exaction of forced labour by employers. According to the complainant organizations, the legal framework in Qatar is not sufficient to protect the rights of migrant workers and the existing legal protections are not adequately enforced. In this connection, the complainant organizations refer to a number of situations faced by migrant workers both prior to departure and upon arrival in the country which facilitate the exaction of forced labour.
9. The complainant organizations indicate that migrant workers often arrive in Qatar without a written contract of employment, or upon arrival are offered a new contract that is substantially different from what was promised in the country of origin, including with regard to the type of job and wages. Although the national legislation prohibits recruitment agencies based and registered in Qatar from charging workers fees or costs for their recruitment, the complainant organizations allege that the legislation does not address recruitment firms who use affiliated organizations abroad that charge such fees. The legislation also does not place an affirmative duty on the employers to pay recruitment-related expenses. High recruitment fees prior to departure and travel fees leave many workers in debt and in need of keeping their jobs in Qatar regardless of the conditions of employment. These conditions include the non-payment of wages for several

months, the provision of accommodation with poor sanitation and no electricity and hazardous working conditions which may result in injury or even death.

- 10.** According to the complainant organizations, Law No. 4 of 2009, the law regulating the sponsorship system (*Kafala*), is among the most restrictive in the region and facilitates forced labour by making it difficult for a migrant worker to leave an abusive employer. Under that law, employers have control over the movement of workers in their employ, including over their ability to reside in Qatar, to change jobs or to leave the country, and workers are unable to transfer employment without the consent of the employer. While Law No. 4 of 2009 allows the Ministry of the Interior to transfer the sponsorship in cases of abuse by the employer, in practice this provision is applied in relatively few cases. Workers who leave their job without permission can be reported to the authorities as having absconded, and abuse by the employer or the failure to pay wages, is not a defence under the law. Workers who are reported as having absconded will be detained and may face fines, deportation or criminal charges. The associated costs should be paid by the employer, but they are often borne by the individual worker and at times by the government or foreign embassy.
- 11.** The complainant organizations submit that although the practice of confiscating workers passports is illegal, the majority of migrant workers have their passports withheld by employers upon arrival. Citing a November 2012 study by the Qatar University's Social and Economic Survey Research Institute, the complainant organizations indicate that 86 per cent of expatriate workers surrendered their passports to employers. This practice enables employers to maintain control over the workers. Labour inspectors do not regularly monitor or investigate this issue and companies are not monitored in a systematic way to prevent this practice. In addition, employers often fail to provide residence visas for their workers, despite being required to do so by law. This practice of leaving workers "undocumented" restricts their freedom of movement, as they are at risk of being detained, and prevents them from obtaining basic medical or banking services.
- 12.** The complainant organizations also indicate that migrant workers may be prevented from trying to leave their employment through threats of the non-payment of wages owed or of deportation. Moreover, employers are able to prevent workers from leaving Qatar, as workers have to obtain exit permits from their employers.
- 13.** In addition, the complainant organizations allege that workers do not have access to an effective complaints mechanism to address these issues. This is due to the fact that inspectors from the Inspection Department of the Ministry of Labour do not visit companies to check their adherence to the law except in cases of a complaint. The burden is therefore placed on the workers to make complaints, but they often lack the necessary information on complaints mechanisms. Language barriers are an obstacle in this regard, as most services are available only in Arabic and English, which is not spoken by the majority of migrant workers. Few of the 150 labour inspectors in the country speak languages other than Arabic and some English, and cannot therefore communicate with most migrant workers. Moreover, as employers have the power to terminate the employment relationship (resulting in deportation), cancel residency permits, refuse a change of employer and deny an exit visa, workers may be afraid to report abuse.
- 14.** Workers who do make complaints to the Labour Department often do not have income or legal accommodation throughout the complaints process, which makes the pursuit of a remedy more difficult. While a temporary transfer of sponsorship may take place during the pendency of a legal dispute, the complainant organizations indicate that this rarely occurs. Workers who file complaints can also face language barriers and lengthy waiting periods. With regard to prosecution, there has been a low number of court cases against abusive employers.

- 15.** The complainant organizations provide information relating to the situation of seven particular migrant workers, without disclosing their identity, and state that these are representative cases. In the additional information provided, the complainant organizations refer to several specific cases based on interviews conducted by a non-governmental organization with 210 migrant workers. The examples contained in both communications relate to workers who experienced passport confiscation, including an employer requiring payment for the return of a passport; the substitution of contracts, on terms relating to both the level of remuneration and the nature of the work; the non-payment of wages; failure to be given a residence visa; and working conditions which include long working hours, physical violence, sexual abuse and poor accommodations. The concrete examples also include situations where workers faced a lack of access to complaints mechanisms, retaliation from sponsors when a complaint was filed and the sponsors' refusal to transfer sponsorship following the filing of a complaint.
- 16.** The complainant organizations also refer to the statement issued by the UN Special Rapporteur on the Human Rights of Migrants following his visit to Qatar in November 2013. The UN Special Rapporteur noted that the practice of sponsors confiscating passports appeared to be still widespread, despite legislative prohibitions in this regard. In addition, despite the ban on Qatari recruitment agencies charging recruitment fees, many migrants had paid recruitment fees in their home countries in order to be able to travel to Qatar. Several migrants had faced contract substitution, having the contract that they had signed in their home country simply replaced by a different contract upon arrival in Qatar, with a lower salary and a different job description. Moreover, the provision of the sponsorship law which allows the Ministry of the Interior to transfer sponsors in case of abuse by the employer was applied in relatively few cases. The UN Special Rapporteur expressed concern that many migrants face human rights violations in the workplace, including the non-payment of wages, high levels of accidents in construction sites, and hazardous working conditions resulting in injury or death. He also noted that the legal complaints mechanism was largely out of reach for most migrant workers, and expressed regret at the low number of court cases against abusive employers.
- 17.** With reference to trafficking, the complainant organizations state that the new legislation on trafficking in persons, Law No. 15 of 2011, provides some important tools to combat forced labour in the country. However, they indicate that the Government has only had limited success with regard to prosecuting trafficking offences and that no government officials have been investigated or prosecuted for complicity in trafficking-related offences. Moreover, they allege that authorities have arrested, detained and deported potential trafficking victims for immigration violations for running away from their employers or sponsors.
- 18.** The complainant organizations conclude by stating that the Government is in breach of its obligations under the Convention by maintaining a sponsorship system that facilitates the exaction of forced labour by Qatari employers and by failing to put in place the enforcement machinery to ensure that the few protections available in the law are effectively enforced. They recall that migrant workers comprise approximately 94 per cent of the workforce of Qatar (1.2 million workers). While government officials often explain the abuse of migrant workers as isolated cases, such abuse is routine and widespread.
- 19.** The complainant organizations call for the Government of Qatar to repeal or substantially change its sponsorship law in order to prevent the forced labour of migrant workers. Pending such measures, the complainant organizations recommend the enforcement of the legislation criminalizing the withholding of passports and mandating that employees receive residence cards within one week as a means of preventing abuses. Lastly, the complainant organizations call on the Government to fully implement Law No. 15 of 2011

through substantially increased efforts to investigate, prosecute, convict, and punish trafficking offences under the law.

B. The Government's response

20. In its replies, dated 10 July 2013 and 22 January 2014, the Government provides information on the general labour law framework, the sponsorship system and the measures it has taken to combat trafficking in persons.
21. Regarding the conclusion of employment contracts, the Government indicates that the legislative framework guarantees both a worker's right to conclude a contract and the freedom to leave work at any time, and does not require a worker to work against his or her will. In this connection, it refers to article 30 of the Constitution, which states that the employee-employer relationship shall be based on social justice for all workers, and indicates that this applies to both citizens and migrant workers. It also refers to the following provisions of the Labour Law (No. 14 of 2004):
- Section 38 states that there shall be a written employment contract approved by the competent administration at the Ministry of Labour, and that this contract shall specify the nature and type of the work and the agreed wage. In this regard, the Government emphasizes that any labour contract which diminishes the rights specified for workers or is contrary to the law is refused and will only be approved following amendments.
 - Section 45 states that the employer may not ask the worker to perform work other than the work agreed upon unless required by necessity (to prevent or repair an accident), provided that the worker shall be paid the entitlement accruing therefrom. As an exception, the employer may ask the worker to perform work other than the work agreed upon if it is temporary or if the work does not basically differ from the original work and if the request to perform that work does not entail an insult on the worker, provided that the wage of the worker shall not be reduced.
 - Section 49 states that if the contract is of an unlimited duration, either party may end it without giving any reasons therefor. In this case, the party which wishes to end the contract shall notify the second party in writing.
 - Section 43 states that any condition in a service contract shall be void when it contains a pledge by the worker to work for the rest of his life with the employer.
 - Section 4 states that the entitlements prescribed by the Labour Law represent the minimum entitlements of the workers and any stipulation contradicting the provisions of the law shall be void unless the said stipulation is more advantageous to the workers and any release, compromise or waiver of the entitlements prescribed for the worker by this law shall be deemed void.
22. With regard to domestic workers, the Government indicates that although this category of workers falls outside the scope of the Labour Law, the Ministry of Labour approves the contracts of domestic workers so as to safeguard their rights specified in these contracts. The Government indicates that the contractual relationship is based on the model contracts annexed to bilateral agreements signed with sending countries.
23. In this regard, the Government indicates that it has concluded 31 bilateral agreements with sending countries, including terms to be included in the consolidated labour contracts, which contain better terms than those specified in legislation. It coordinates with the countries sending labour to reach an agreement on the process of recruiting migrant

workers (including domestic workers) and the terms of their employment and protection. The Government states that a contract of employment may be signed in the migrant worker's country of origin, and certified by Qatar's embassy in that country, or concluded in Qatar and certified by both the Ministry of Labour in Qatar and the embassy of the worker's country.

24. The Government also indicates that it has put in place mechanisms for the implementation and application of these international agreements. It states that it pays special attention to meeting its obligations towards migrant workers and endeavours to combat all forms of forced or compulsory labour. The Ministry of Labour coordinates with the embassies of the labour-exporting countries to follow up on the situation of migrant workers and to resolve any individual infringements by enterprises.
25. With reference to the sponsorship system, the Government states that this system does not lead to objectionable practices, and that it safeguards the balance between employers' rights and the rights of migrant workers. Law No. 4 of 2009 provides that every migrant worker granted a visa to enter the State shall have a sponsor. Section 5 of the Law states that a sponsor and the worker shall refer to the competent authorities within seven working days of the worker's entry in order to carry out the relevant medical tests and fingerprinting. The residence permit shall be granted to the worker as soon as the procedures are finalized, which should not take more than one week, unless there are specific impediments.
26. The Government states that the law prohibits workers from working with a person other than the sponsor. When a worker is found working for someone else, such cases are dealt with in accordance with the law and penalties are imposed on any employer in violation thereof. It is the responsibility of the sponsor to inform the competent body at the Ministry of the Interior in the case of a change of status of the worker sponsored. Section 24 of Law No. 4 of 2009 requires the sponsor to repatriate the worker sponsored to his/her country of origin when the residence permit ends, is annulled, or if there is an order of repatriation.
27. Section 12 of Law No. 4 of 2009 specifies that the Minister or the person mandated by him, may temporarily transfer the sponsorship of any migrant worker if there are any lawsuits filed between the sponsor and the migrant worker. The Minister may approve the transfer of the sponsorship of any migrant worker (including those not covered by the Labour Law) to another employer in the event of abuse by the sponsor, or if required in the public interest. In this regard, the Government indicates that between 2010 and 2013, there were 471 sponsorship transfers.
28. On the subject of employers leaving workers "undocumented", the Government states that, from a procedural standpoint, it is not possible for a worker who is a legal resident to be a resident without an identification document. As soon as the worker obtains a residency permit, and finalizes the residence procedures, a Qatari personal card is issued to the worker.
29. With regard to the confiscation of passports, the Government indicates that this practice occurred in the past, but no longer takes place as an employer will be held legally accountable and will be subject to administrative penalties. This is the result of awareness campaigns targeting employers. The Government refers in this regard to section 9 of Law No. 4 of 2009, which requires the employer to return the workers' passport or travel document after finalizing the residence procedure and to section 52 which provides for a penalty of up to a maximum fine of 10,000 Qatar riyals (QAR).
30. The Government states that it does not deny that there were cases in which the payment of wages was delayed, but that it has taken decisive measures and quickly resolved any cases

that were brought to its attention in which wages were not paid. The non-payment of wages has diminished due to the measures taken by the Government, and it now only occurs in a certain number of individual cases. Administrative penalties in this regard include prohibiting a company found in violation from working with the Ministry of Labour and the Ministry of the Interior, and work is currently under way for similar prohibitions with regard to the Ministry of Economy and Trade.

- 31.** Regarding the charging of fees, the Government indicates that no complaints have been filed against a Qatari recruitment agency for the charging or deduction of fees from workers. While workers have reported that certified recruitment agencies in their countries of origin have charged such fees, the Government does not have the power to monitor these agencies. The Government provides embassies of labour-sending countries with the names of certified recruitment agencies, as well as a list of those which are prohibited. The governments of sending countries are also requested to provide the Government with names of agencies that they have certified, which are then circulated to employers and to Qatari recruitment agencies who work with foreign recruitment agencies.
- 32.** With reference to protecting and supporting migrant workers, the Government indicates that it takes measures to: protect migrant workers during recruitment; monitor wages; provide suitable accommodation and health care; create a suitable work environment for workers' safety; and provide continued support to workers during their stay in the country by providing information and guidance. The Government also indicates that the Public Relations Department and the General Directorate of Passports and Expatriates Affairs work to communicate with groups of expatriate workers in the country to make them aware of their legal rights and obligations. It also takes measures to inform enterprises with respect to their obligations to protect the rights of migrant workers within the framework of the social responsibility of enterprises.
- 33.** The Government emphasizes the importance of the labour inspection department in detecting violations and in protecting workers' rights specified in both the legislation and their contracts. The labour inspection department undertook 42,586 inspection visits in 2011, and 46,624 in 2012, including periodic and unannounced visits as well as follow-up inspections. The Government indicates that it expects to increase both the number of inspectors in the future, as well as the quality of their work, including by providing training and hiring interpreters who speak English as well as the languages of the majority of Asian workers.
- 34.** With regard to domestic workers, the Government indicates that the Ministry follows up on recruitment agencies of domestic workers and inspects these agencies on a periodic basis, including unannounced inspections, to verify that workers are not being exploited. In 2012, 13 recruitment agencies were shut down on the grounds of their violation of the provisions of the Labour Law and the Ministerial Order regulating the work of such agencies.
- 35.** The Government states that it allows migrant workers to make complaints by contacting a hotline, through email, or by visiting the Labour Relations Department. The number of complaints received has declined from 11,355 complaints in 2010, to 8,668 complaints in 2012. The Government also states that the Ministry will undertake to resolve workers' conflicts with their employers and facilitate reconciliation. If no solution to the conflict is found, the matter will be referred to the Labour Court. In this regard, the Ministry has set up an office in the Labour Court with a view to assisting workers, at no cost, to prepare their complaints in the required format and to assist with translation in their lawsuits filed against employers, in order to facilitate and expedite the procedures. The Government also asserts that taking legal action is guaranteed to migrant workers, as they are exempted from

fees. There are units in the civil court which specialize in workers' lawsuits in order to expedite decisions in this respect.

36. The Government indicates that the complaints unit in the human rights department of the Ministry of the Interior handles workers' complaints and queries on a daily basis, the majority of which deal with labour relations between sponsors and persons sponsored. The human rights department provides advice and guidance, and makes complainants aware of their legal rights and entitlements.
37. With reference to the statement by the UN Special Rapporteur on the human rights of migrants, the Government underlines that the Special Rapporteur highlighted some positive elements with respect to the rights of migrant workers, including the provision in Law No. 4 of 2009 prohibiting the confiscation of passports, the Government's intention to increase the number of labour inspectors, the blacklisting by the Government of companies which abuse migrant workers, and the different mechanisms provided to workers who file complaints and appeals through the Ministry of Labour, the Ministry of the Interior and the National Human Rights Committee.
38. The Government also refers to Act No. 15 of 2011 on combating human trafficking, which prohibits trafficking for the purpose of exploitation. Exploitation includes forced labour, servitude, slavery or semi-slavery practices. Section 2 of the Act punishes acts of human trafficking by imprisonment for a maximum period of seven years and to a maximum fine of QAR250,000, and under particular circumstances, can result in a maximum fine of QAR300,000 and imprisonment for 15 years. The Government indicates that it has adopted a national strategy to combat human trafficking, and an institutional framework for its implementation, which is carried out by the Qatar Foundation for Combating Human Trafficking in cooperation with other relevant bodies. The Government states that migrant workers are therefore provided with the necessary legal, social and procedural protection from any form or manifestation of any form of exploitation or trafficking.
39. The Government states that it has adopted balanced policies in the recruitment process of migrant workers in order to achieve the ambitious aims and targets for the building of a modern State through creating the conditions for employment as well as retention of a suitable composition of foreign workers, while protecting their rights and securing their safety and needs in housing and public services.

III. Conclusions of the committee

40. The committee notes that the representation raises two main issues with regard to compliance with Convention No. 29. The first concerns the situation of migrant workers in the country being subject to forced labour, within the meaning of the Convention. The second concerns the responsibility of the State to discharge its duty, pursuant to the Convention, to suppress the use of forced or compulsory labour in all its forms. The committee observes that the issues raised in the representation relate to the application of Articles 1(1), 2(1) and 25 of the Convention.
41. The committee must evaluate the manner in which the Government is discharging its duty, pursuant to Article 1 of the Convention, "to suppress the use of forced or compulsory labour in all its forms". To this end, the committee will review the legal framework regulating the situation of migrant workers, in so far as it relates to their protection from forced labour, as well as the manner in which this framework is applied in practice. This examination will accordingly permit the committee to assess whether, based on the information received, some migrant workers in Qatar are compelled to work under circumstances that fall within the definition of forced labour established in Article 2(1) of

the Convention. This provision defines forced labour as work or service exacted under the menace of any penalty and for which a person has not offered herself or himself voluntarily.

A. National legal framework

42. By ratifying the Convention, States are under the obligation to adopt measures, in law and practice, with a view to ensuring that no form of forced labour is tolerated on their territory. To this end, it is important for the Government to adopt appropriate legislation and to establish legal safeguards to prevent any de facto coercion to perform work, and to ensure that, when forced labour is exacted, adequate penalties are imposed on perpetrators.
43. Both the complainant organizations and the Government refer to several pieces of legislation in this regard. According to the Government, national legislation, including the Constitution, guarantees workers' rights and freedom at work, whereas the complainant organizations consider that the legal framework is not sufficient to protect the rights of migrant workers from the exaction of forced labour. The committee observes that several provisions of the Penal Code criminalize forced labour or practices directly connected with the exaction of forced labour (including section 322, on forcing a person to work with or without a salary, and section 321 on slavery). Specific legislation also addresses trafficking in persons (Law No. 15 of 2011) and constitutes an appropriate framework to combat this form of forced labour if correctly implemented. These two pieces of legislation contain penalties which may have a deterrent effect on forced labour practices. The committee nevertheless considers it important to examine the legislation relating to labour and migration, as this legislation should also provide for appropriate safeguards to prevent migrant workers from being exploited in conditions amounting to forced labour.

(i) Labour Law

44. The committee notes that the Labour Law contains a series of protections, including provisions regarding regular payment of wages (sections 65 and 66), occupational safety and health (sections 99 to 106), working time (section 73), overtime (section 74) and weekly rest (section 75). The Law also specifies what information must be contained in an employment contract and that each employment contract must be approved by the Ministry of Labour (section 38). Employment contracts of a limited duration cannot exceed five years (section 40). Employers are prohibited from asking workers to do work which differs from what they had agreed in the contract, with limited exceptions (section 45). Within one year of the end of a contract, all lawsuits filed by workers claiming entitlements under the Labour Law shall be exempt from judicial fees. While noting the penalties contained in sections 144 and 145 for violations relating to occupational safety and health, working time and weekly rest, the committee observes that the Labour Law does not appear to contain penalties for the violation of provisions regarding payment of wages and employment contracts.
45. In this regard, the committee notes the allegations of the complainant organizations that late payment and non-payment of wages is a problem faced by many migrant workers, as well as the Government's acknowledgement that, in the past, delays in the payment of wages had occurred. However, the Government indicates that this has significantly diminished due to the measures it has taken to resolve any such cases brought to its attention. While welcoming the Government's recognition of the non-payment of wages as a serious issue, the absence of information on the penalties applied in this respect makes it difficult to assess the scope and effectiveness of the measures taken by the Government. **The committee encourages the Government to strengthen its efforts to address the non-payment of wages, as this constitutes a serious breach of the labour contract.**

Such violations contribute to the dependence of migrant workers on their employers, allowing the exertion of disproportionate power on workers.

46. The committee notes that, in reply to the allegations concerning contract substitution, the Government refers to section 38 of the Labour Law, pursuant to which all contracts must be submitted to the Ministry of Labour. The Government indicates that the Ministry will refuse to certify any contract which diminishes the rights of workers or is contrary to the Labour Law. **While recognizing that this provision could contribute to protecting workers against deceptive practices, the committee would encourage the Government to take measures to ensure its effective application, including providing for penalties for violations. Measures could also be taken to establish procedures to ensure that the competent authorities verify that the contract certified corresponds to the original offer of employment consented to by the worker.**
47. The committee notes that the Labour Law requires all recruitment firms to be licensed (section 29) and prohibits them from charging recruitment fees (section 33), violations punishable with imprisonment of up to one month and/or a fine. Recalling that the imposition of high fees on migrant workers may result in significant debt and contribute to their vulnerability, the committee considers these provisions to be an important step towards the protection of workers and wishes to stress the importance of their enforcement. It also notes that the complainant organizations submit that the legislation does not address recruitment firms who use affiliated organizations abroad that do charge fees. In this regard, the Government indicates that it is aware that workers have been charged fees in their countries of origin, but that it is not able to monitor recruitment agencies in other countries. The Government adds that it requests the governments of labour-sending countries to provide a list of certified agencies, which is circulated to Qatari recruitment agencies. The committee wishes to underline that the enforcement of provisions regulating recruitment agencies are an important tool to prevent situations of forced labour. It therefore welcomes measures taken to monitor such recruitment agencies, as it considers that the practices of fee charging coupled with the non-payment of wages increase the dependence of workers and constitute an important impediment for them to leave their employment. **However, the committee observes that there does not appear to be any penalty applicable to national recruitment firms who work with foreign firms that are not on the circulated list, nor does the legislation establish joint liability on Qatari recruitment firms who are affiliated or working with non-Qatari recruitment firms known to charge high fees. Consequently, the committee wishes to encourage the Government to consider taking measures in this regard.**
48. The committee notes that section 3(4) of the Labour Law excludes domestic workers from its scope of application. While noting the Government's statement that domestic workers benefit from the protection provided by the Penal Code, the committee observes that this category of workers is not provided protection regarding occupational safety and health, hours of work, overtime compensation, periods of daily and weekly rest and wages. However, it notes the Government's indication that a draft law on domestic workers is currently being examined. **Recalling the particularly vulnerable situation of domestic workers, due in part to the hidden nature of their work, the committee considers it essential that legislation guaranteeing their labour rights be adopted as a matter of urgency, and encourages the Government to take into account the Domestic Workers Convention, 2011 (No. 189), during the consideration of any such legislation.** The adoption of a legal framework ensuring the labour rights of domestic workers is all the more important as there are more than 130,000 domestic workers in the country.

(ii) **Sponsorship system**

49. The committee notes that Law No. 4 of 2009 regulates the sponsorship system under which migrant workers are recruited and employed, and requires every expatriate granted a visa to have a sponsor (section 18). The Government asserts that this Law safeguards the balance between employers' interests and the rights of migrant workers. However, the complainant organizations assert that Law No. 4 of 2009 is among the most restrictive in the region and facilitates the exaction of forced labour by giving employers control over the movement of workers in their employ.
50. The committee notes that pursuant to section 18 of the Law, expatriates may not leave the country temporarily or permanently unless they have an exit permit issued by the sponsor. In this regard, the complainant organizations assert that employers have used this authority to prevent workers from leaving Qatar as a tool of forced labour. However, the Government indicates that the Law provides protection from the abuse of sponsors by enabling migrant workers to travel without the employer's authorization if the employer refuses such authorization without a reasonable motive. The committee notes, in this regard, that section 18 of the Law states that if a sponsor refuses to grant an exit permit to an employee, the employee can only depart from the country by providing a certificate that there are no judgments or claims made against him/her by the competent courts, 15 days after publishing a notice in two daily newspapers. The committee observes that the process for leaving the country without an exit permit upon the employers refusal appears to be complicated, which may raise issues of its accessibility and effectiveness.
51. The committee notes the allegation of the complainant organizations that, despite the provision requiring the sponsor to return a worker's passport after the procedures for a residence permit are completed (section 9 of Law No. 4 of 2009), passport retention remains a widespread practice. They allege that this is another method used by employers to prevent migrant workers from leaving the country and that labour inspectors do not monitor passport confiscation. In this regard, the Government acknowledges that passport confiscation occurred in the past, but this practice no longer takes place and that it has instituted an awareness-raising campaign for employers on this subject. While the Government states that employers will be held legally accountable and subject to fines for passport retention, the committee observes that the Government does not provide information on any specific penalties that have been imposed in this regard. The committee is of the view that, as a matter of principle, identity documents and passports should remain in the worker's possession. Passport retention deprives workers of freedom of movement, and constitutes a serious impediment to leaving an employment relationship, thereby increasing their vulnerability to abuse. **In this respect, the committee considers it essential that the Government continue to strengthen its efforts to ensure that no migrant workers have their passports retained and that employers who do engage in this practice are adequately sanctioned.**
52. With regard to residency procedures, the committee notes the complainant organizations' allegation that employers leaving workers "undocumented", by not making arrangements for their proper permits, is a common practice. They allege that this prevents workers from obtaining basic medical and banking services, and restricts their freedom of movement as they can be detained and deported for not having such documents. In reply, the Government indicates that as soon as workers obtain a residency permit and finalize the residency procedure, they are issued with a residency card. While noting that section 9 of Law No. 4 of 2009 states that the sponsor is responsible for completing the residency procedures for the migrant worker, the committee observes that the Government does not provide information on whether any penalties have been applied on sponsors for failing to complete the residency procedures for their workers.

53. Regarding freedom to change jobs, the committee notes the Government's statement that Law No. 4 of 2009 prohibits workers from working with a person other than their sponsor, and that penalties will be imposed if a person is found to be employed by another person. Nonetheless, temporary transfer of the sponsorship of any migrant worker is possible if any lawsuit has been filed between the worker and the sponsor with the approval of the Ministry of the Interior (section 12). In this regard, the committee observes that recourse to this provision has not been frequent, as the number of sponsorship transfers approved between 2010 and 2013 (471 transfers) appear to be quite low compared to the large population of migrant workers in the country (approximately 1.2 million). Such figures give rise to concerns regarding the accessibility for migrant workers to transfer sponsorship. **The committee therefore encourages the Government to take concrete measures to ensure that, in practice, workers are able to effectively access this process, and to consider broadening the situations in which workers may change their employer.**
54. Based on the above analysis, the committee observes that although aspects of Law No. 4 of 2009 aim to offer protection to workers while taking duly into account the interests of their employers, there are difficulties with regard to the application of such provisions in practice, such as the requirement to register workers, the prohibition of the confiscation of passports and the apparent infrequency of transfers of sponsorship. Moreover, there is a lack of information on sanctions that have been applied for violations of these provisions. In addition, the committee observes that some provisions of this legislation (particularly concerning the limitations relating to migrant workers leaving the country or changing employment) appear to be disproportionately restrictive and make it difficult for workers who may be facing abusive situations to leave. The committee observes that legislative provisions which prevent the termination of employment by means of reasonable notice can result in the transformation of a contractual relationship based on the will of the parties into service by compulsion, and may therefore have an impact on the application of the Convention. The committee acknowledges the need to protect the interests of employers with regard to the respect for the mutually agreed terms of the employment contract. However, legislative provisions should not have the effect of preventing workers from leaving their employment in the case of an abusive situation, or with reasonable notice in cases of contracts of long duration.

B. Enforcement

55. The committee recalls that any legal framework must be accompanied by measures to allow workers to effectively assert the rights contained therein and by an effective judicial system that is able to apply adequate sanctions for labour law violations as well as penal sanctions on perpetrators of forced labour.

(i) Labour inspection

56. The committee notes the complainant organizations' assertion that labour inspectors only visit companies to check compliance in the case of complaints, and do not monitor the issue of passport confiscation. In this respect, the Government indicates that it undertook 46,624 inspections in 2012 (which is approximately 310 inspections per inspector), including periodic and unannounced visits, as well as follow-up inspections. The committee welcomes the Government's indication that it expects to increase the number of inspectors in the future, as well as the quality of their work. Referring to its observations above in respect of difficulties regarding the effective application of the legal framework regulating the work of migrant workers, the committee underlines the important role of labour inspection in enforcing the labour rights of these workers, as the proactive detection of such violations is an important first step towards the identification of forced labour

practices. **The committee accordingly considers it essential that measures continue to be taken to strengthen the capacity of the labour inspectorate, including measures to ensure the proactive undertaking of random inspections not based on complaints, further training for labour inspectors on the detection of forced labour, the hiring of more inspectors able to speak the languages spoken by migrant workers and the regular verification by inspectors of matters such as passport confiscation, conditions of work and timely wage payments.**

(ii) Access to justice

57. The committee notes the assertion of the complainant organizations that migrant workers do not have access to an effective complaints mechanism. They indicate that workers face impediments in making complaints regarding abuse, including fear of deportation, as well as obstacles throughout the duration of a complaints procedure, such as language barriers and a lack of accommodation and income during a lengthy process. However, the committee notes the Government's statements that workers are able to make complaints by contacting a hotline, through email, or in person at the Labour Relations Department. Further measures it has taken include exempting migrant workers from legal fees and establishing an office to assist workers with the preparation and translation of complaints. The Government also refers to a number of complaints mechanisms, including the labour court and the human rights department of the Ministry of the Interior. The Ministry of Labour will undertake to resolve workers' conflicts with their employers and facilitate reconciliation, and if such reconciliation is not possible, the matter will be referred to the Labour Court. In this regard, the committee notes an absence of information on the number of cases that have been resolved or the outcome of any cases referred to the Labour Court. The committee observes that while the legislation provides for the establishment of different complaints mechanisms, it appears that there exist some obstacles to their effective use by workers. It therefore considers that the Government should continue to take measures to remove such impediments, such as by raising awareness of workers to their rights contained in national legislation, including by making this legislation available in the appropriate languages of migrant workers, and by cooperating with labour-sending countries and relevant non-governmental organizations in this regard. **The committee recalls that the situation of vulnerability of migrant workers requires proactive measures to assist them in asserting their rights without fear of retaliation, including by facilitating their empowerment, such as the right to join organizations of their own choosing. Moreover, the committee encourages the Government to take measures to ensure protection of suspected victims of forced labour, including effective measures to provide support and shelter throughout any complaints procedures, as this constitutes an important element in ensuring their access to justice.**

(iii) Penalties

58. The committee notes that the Government has not provided information on sanctions imposed for violations of Labour Law No. 14 of 2004 and Law No. 4 of 2009 as enumerated in paragraphs 45, 50, 51 and 53 above. The committee further notes that the legislation does not contain penalties for other violations, particularly regarding the non-payment of wages and the content and certification of contracts, as enumerated in paragraphs 43 and 45 above. The committee underlines the importance of effectively sanctioning labour law violations, as the detection and remedying of such violations contributes to the prevention of forced labour practices. **Moreover, in light of the difficulties that workers may face to access complaints mechanisms, as well as the concern expressed by the UN Special Rapporteur on the Human Rights of Migrants relating to the low number of court cases against employers, the committee calls on the Government to take effective measures to ensure that adequate sanctions are**

applied to employers who impose forced labour, in conformity with Article 25 of the Convention. In this regard, it emphasizes the importance of ensuring that law enforcement actors and the judiciary are adequately trained and sensitized on forced labour practices in the country, particularly as penalties play an essential role in the deterrence of forced labour practices.

C. Forced labour practices

- 59.** Based on the above analysis and the information provided, the committee will examine whether some migrant workers face situations that constitute forced labour according to the definition in Article 2(1) of the Convention. This definition comprises three elements, all three of which have to be present for the situation to be classified as forced labour: the exaction of work or service, the absence of voluntary offer (consent) and a menace or penalty.
- 60.** Regarding the first element, the migrant workers are clearly performing labour, as acknowledged by both the complainant organizations and the Government. On the issue of whether migrant workers have offered themselves voluntarily to undertake the work assigned to them, the committee notes the practice of the substitution of contracts whereby the terms and conditions of work are different than those promised during the recruitment process. The committee considers that fraud, deception and the substitution of contracts constitute means of indirect coercion that exclude the informed consent of the worker. It notes that not only must the free and informed consent be given by the worker when accepting the work, but this consent must also cover the entire duration of the employment relationship. In this regard, the committee considers that the practice of the confiscation of passports has a significant impact on their freedom of movement and therefore may constitute an obstacle to leaving the employment relationship. The committee also notes, as examined above, that Law No. 4 of 2009 contains provisions that could considerably contribute to restricting the freedom of movement of migrant workers, such as restrictions on changing sponsors and the requirement of obtaining an exit permit from the employer. This contributes to increasing the vulnerability of migrant workers, impacting their ability to revoke their freely given consent to work and to put an end to an exploitative employment relationship.
- 61.** With regard to the question of whether some migrant workers perform work under the threat of a penalty, the committee recalls that the concept of a penalty covers not only penal sanctions, but any form of sanction and punishment or any form of loss of a right. This includes punishments such as deportation or imprisonment, as well as the loss of wages due. In this regard, the committee observes that both the complainant organizations and the Government refer to the practice of the withholding of wages. Moreover, the committee observes that, based on the low number of penalties on employers that violate the relevant legislation, workers may be reluctant to make complaints and may fear retaliation from their employer if any such complaint is made. As the committee noted above, the complaints procedures appear difficult to access, and workers in an exploitative situation may therefore feel that their only option is leaving their employment. However, pursuant to Law No. 4 of 2009, workers who leave their job without permission must be reported as having absconded and this could result in their detention and deportation, as well as the imposition of fines and/or criminal charges.
- 62.** The committee recalls that not all forms of exploitative work amount to forced labour as defined in the Convention. However, based on the analysis above as well as the specific examples provided by the complainant organizations, it would appear to the committee that certain migrant workers in the country may find themselves in situations prohibited by the Convention, due to several factors enumerated above, such as contract substitution,

restrictions on leaving either the employment relationship or the country, the non-payment of wages, or the threat of retaliation.

- 63. In conclusion, the committee considers that further measures must be taken by the Government to discharge its duty under Article 1 of the Convention to effectively suppress the use of forced labour in all its forms. The committee therefore encourages the Government to adopt an integrated approach for the prevention of forced labour practices as well as its effective punishment. The protection of migrant workers from forced labour requires the effective guarantee and implementation of a broad range of labour rights, including comprehensive measures for their supervision. It is also important to ensure that the provisions of Law No. 4 of 2009 are not, in practice, used so as to prevent migrant workers from being in a position to end their labour relationship when they are victims of exploitative conditions of work.**
- 64.** The committee also encourages the Government to avail itself of the technical assistance of the International Labour Office on the matters raised in its conclusions.

IV. The committee's recommendations

- 65. In light of the conclusions set out in paragraphs 40–64 above concerning the issues raised in the representation, the committee recommends that the Governing Body:**
- (a) approve the present report;**
 - (b) request the Government, in light of the conditions of work that certain migrant workers may face and in order to ensure that they enjoy the protection provided for in the Convention, to take into account the action requested in paragraphs 45, 46, 47, 48, 51, 53, 56, 57, 58 and 63 and in particular:**
 - (i) to review without delay the functioning of the sponsorship system so that the system does not place migrant workers in a situation of increased vulnerability to the imposition of exploitative work from which they cannot leave;**
 - (ii) to ensure without delay access to justice for migrant workers, so that they can effectively assert their rights, including by strengthening the complaints mechanism and the labour inspection system, as well as through the empowerment of migrant workers;**
 - (iii) to ensure that adequate penalties are applied for violations relating to forced labour contained in the Penal Code, the Labour Law and Law No. 15 of 2011 on combating trafficking in persons.**
 - (c) invite the Government to provide information on the measures taken to give effect to the recommendations of this committee, including relevant data regarding the number and nature of violations of the relevant legislative framework and the specific penalties applied, for examination by the Committee of Experts on the Application of Conventions and Recommendations at its next session in November–December 2014;**

- (d) invite the Government to avail itself of the technical assistance of the International Labour Office to implement these recommendations;*
- (e) make this report publicly available and close the procedure initiated by the representation.*

Geneva, 24 March 2014

(Signed)

D. Duan
K. Khamis Mattar
B. Pandey